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OCT 13 2004

PATENT APPLICATION*IN THE UNITED STATES PATENT AND TRADEMARK OFFICE*

*Group*  
*Art Unit:* 3761  
  
*Attorney*  
*Docket No.:* 121027-077  
  
*Applicant:* Takaaki SHIMADA et al.  
  
*Invention:* DISPOSABLE UNDERGARMENT  
  
*Serial No:* 09/976,182  
  
*Filed:* October 11, 2001  
  
*Examiner:* Catharine Anderson

PULL-ON

Certificate Less than 37 CFR 1.8(b)

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via facsimile transmission on the date indicated below.

October 13 2004

  
Michael S. Gzyhowski

PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
UNDER 37 CFR §1.137(a) and §1.181

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313

Sir:

In response to the Notice of Abandonment mailed September 16, 2004, in connection with the above-identified application, applicants respectfully petition to have the holding of abandonment in this application withdrawn.

As indicated in the Notice of Abandonment, the application was abandoned because of applicants' failure to timely reply to the Office letter mailed December 4, 2003.

Applicants submit that they did timely reply to the Office letter mailed on December 4, 2003 by filing an Amendment on March 1, 2004 which U.S. Patent and Trademark Office apparently lost or otherwise failed to match up with the pending application file.

The following facts are presented in support of applicants' submission that they did timely response to the Office letter mailed December 4, 2003 was unavoidable.

1. On December 4, 2004 the Examiner mailed an Office Action to the undersigned.
2. The December 4, 2004 Office Action was received by the undersigned on December 8, 2003.
3. Upon receiving client instructions, the undersigned prepared and filed an Amendment in response to the December 4, 2004 Office Action on March 1, 2004.
4. The Amendment was filed via facsimile together with a Certificate of Transmission by Facsimile and an Amendment Transmittal Letter.
5. Submitted herewith are copies of the Amendment, the Certificate of Transmission by Facsimile and the Amendment Transmittal Letter.
6. Also submitted herewith is a facsimile transmission report which, as printed on the top of the Certificate of Transmission by Facsimile, confirms that 13 pages were sent and received on

March 1, 2004 at 2:24pm at facsimile telephone number 703-872-9306 which is the Patent and Trademark Office's central facsimile number for filing Amendments and Office Action responses.

7. Upon receive the Notice of Abandonment the undersigned telephoned Examiner Anderson to ask if the Amendment could be resubmitted without having to petition to withdraw the abandonment. Examiner Anderson advised the undersigned that it would be necessary to submit the present petition to withdraw the abandonment of the application.

8. Based upon the above facts, the undersigned submits that applicants' did in fact timely respond to the Office Action of December 4, 2003 and that the U.S. Patent and Trademark Office either lost or failed to match the Amendment with the proper file, but certainly mishandled the receipt and processing of the Amendment.

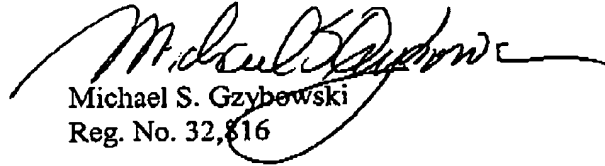
The submission of the Amendment herewith (which was previously filed March 1, 2004) fulfill applicants' requirement to provide a proper response to the Office Action of December 4, 2003.

The undersigned hereby authorizes necessary fee of \$110.00 to be changed to Deposit Account No. 12-2136 to have this petition considered.

The undersigned requests that any fee necessary for this petition be waived or refunded inasmuch as the U.S. Patent and Trademark Office is believed to have lost or mishandled the Amendment previously filed by applicants on March 1, 2004, thus causing the abandonment of the application.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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Reg. No. 32,816

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